HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 9462 OF 1995

Between:

D. Venkat Reddy

..... Petitioner

AND

The District Collector,
Nalgonda & others

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Shri Y. Ravindra

Dated: 02.11.2006

Per G.S.SINGHVI, CJ

Feeling threatened with the action initiated by the respondents in the matter of alleged misappropriation of funds allocated under Jawahar Rojgar Yojana (for short, 'JRY') during 1989-90, 1990-91 and 1991-92, the petitioner has filed this petition for issue of a mandamus to Executive Engineer, Panchayat Raj, Miryalagudem to prepare measurement books in respect of works completed by him by utilizing JRY funds as Sarpanch of Miryalagudem Gram Panchayat and further direct the respondents not to take action against him till the preparation of measurement books.

The petitioner was elected as Sarpanch of Miryalagudem Gram Panchayat in 1981 and again in 1988. During financial years 1989-90, 1990-91 and 1991-92, different sums were sanctioned under JRY. According to the petitioner, out of Rs.1,79,000/- sanctioned during 1989-90, works worth Rs.1,70,000/- were undertaken and completed and Engineering Department prepared measurement books for Rs.1,41,779/-. In addition, he spent Rs.7,371/- for purchase of pipes. Out of Rs.1,36,000/- sanctioned during 1990-91, an amount of Rs.1,10,000/- was spent, but during 1991-92, only Rs.13,000/- could be spent out of the sanctioned amount of Rs.1,35,000/-. He further averred that the entire amount sanctioned and spent was recorded in the progress report prepared by the various functionaries and was certified by the Assistant Engineer, Panchayat Raj, but without any reason, the

officers initiated action by issuing notices dated 03.01.1995 and 06.02.1995. In paragraphs 5, 6 and 7 of his affidavit, the petitioner has averred as under:

> "5. The entire amount sanctioned and amounts spent were recorded in the progress report prepared by M.D.O., MPP, Munagala and was certified by Asst.Engineer (P.Raj), Munagala. Even though works were supervised and amounts spent were noted by A.E., M.Books were not prepared in respect of all the works. Under those circumstances, M.D.O., MPP, Munagala wrote a letter No.P/34/1992 dt.16.3.1993 to the Executive Engineer, Tribal Welfare, Rampachodavaram to depute Asst. Engineer who was incharge of Munagala Gram Panchayath during the period 1989 to 1992. As no action was taken by Engineering Department I addressed a letter on 11-11-1993 to Special Officer, MPP, Munagala to send the Executive Engineer, Panchayat Raj, Miryalagudem to arrange for preparation of M.Books for the work done by me. On the same day i.e., 11-11-1993 after receipt of letter from me, the Special Officer, Munagala addressed a letter to Executive Engineer, Panchayat Raj, Miryalagudem requesting him on humanitarian grounds to instruct the Mandal Asst. Engineer and Deputy Executive Engineer, Panchayath Raj, Kodada to record the said works. As the entire amount was spent by me under the supervision of the Asst. Engineer and the said Asst. Engineer was transferred without completion of M.Books, the Special Officer, MPP, Munagala and M.D.O., MPP, Munagala addressed letters to Executive Engineer to arrange for preparation of M.Books in respect of the works done by me. In fact, in the letter dt.9-11-1993, the Special Officer, MPP, Munagala has observed as follows:
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> "As such, we can help to the innocent person."
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> 6. As there was no proper response from Engineering Department, the Special Officer, MPP, Munagala addressed a letter to District Collector, Nalgonda

dt.13-3-1994 requesting him to address Executive Engineer (Panchayat Raj), Miryalagudem to record the works done in M.Books for the year 1989-90 and 1990-91. The District Collector without making any arrangement to get M.Books prepared has removed me by an order dt.21-2-1993. On an appeal filed by me, the Government issued G.O.Rt.No.776 P.Raj, Rural Development and Relief (JRY-IV) Department, dt.8-6-1994 remanding the matter to the District Collector (P.Wing) Nalgonda to find out as to what extent the works have been executed by getting the M.Books verified and the amounts spent on the works.

7. After the case was remanded the Collector (P.Wing), Nalgonda issued an order dt.22.6.1994 to submit any records available in connection with the misappropriation of Rs.2,95,900.00 of J.R.Y. funds. Immediately, I sent a reply about the details of works done and the amounts spent and requesting the District Collector to arrange Engineering staff to prepare M.Books in respect of which M.Books are not prepared. As no action was taken at my instance, the District Panchayath Officer, Nalgonda addressed a letter dt.3.1.1995 to the Executive Enginer, Panchayath Raj, Miryalagudem requesting him to issue necessary instructions to Asst. Engineer, P.Raj, Munagala and to the Deputy Executive Engineer, P.Raj, Kodada to record and check the works claimed to have been executed by me during the year 1989-90 and 1990-91. The same D.P.O. addressed another letter to Executive Engineer on 6.2.1995 requesting him to take necessary action for getting the works executed under J.R.Y. funds in the year 1989-90 and 1990-91, check measured by Dy. Executive Engineer to Panchayat Raj, Kodad at an early date. On the same day, he addressed a letter to me directing me to produce the M.Books for an amount of Rs.2,95,000/- drawn under J.R.Y. funds by me within 10 days from the date of receipt of the said memo. The said memo dt.6.2.1995 was served on me on 18.4.1995 and on the same day I represented to

the District Collector, Nalgonda to make arrangements to complete M.Books by the Engineering Department."

In the counter-affidavit filed on behalf of the respondents by Shri M. Gangaram, District Panchayat Officer, it has been averred that the petitioner had not executed any work in furtherance of allocation of funds under JRY and he has filed this petition to stultify the action initiated by the department. In paragraphs 3, 4 and 6 of his affidavit, Shri M.Gangaram has averred as under:

"3. In reply to para Nos.5 and 6 of the affidavit, it is submitted that as stated supra the alleged progress report does not specify the particulars of the work.

It is further submitted that the letter No.P/34/1992, dt.16.9.1993 has been issued by the Mandal Development Officer on a representation by the petitioner and not on his own. The contention of the petitioner that the Assistant Engineer concerned has certified the progress report prepared by Mandal Development Officer is false. Though the petitioner did not execute even a single work during the period 1989-1992, but keep on submitting letters for the recording of M.Books and the letters issued by the Mandal Development Officer to the Engineering Department is nothing but forwarding the request of the petitioner on humanitarian grounds. None of the letters specifically states that the petitioner has executed the work under SGRY funds before passing the order of removal by the District Collector. Basing on the direction made in G.O.Rt.No.776, dt.8.6.1994 issued by the Government, the District Collector has issued a letter on 22.6.1994 asking petitioner herein to furnish the details or any records available in connection with the misappropriation of Rs.2,95,000/- JRY funds to the District Panchayat Officer within 15 days. The petitioner herein did not file any reply to the said show cause notice dt.22.6.1994, the alleged reply filed along with the material papers is nothing but a

fabricated document.

It is further submitted that the contention of the petitioner that the District Panchayat Officer also written a letter on 3.1.1995 to the Executive Engineer requesting to issue necessary instructions to the Assistant Engineer for recording of M.Books is again nothing but forwarding representation of the petitioner to the Executive Engineer, Panchayat Division, Miryalaguda, and requested the Executive Engineer to get it measured and check measured. But the District Panchayat Officer never confirm that the petitioner has executed the work as claimed by him. Similarly, another letter dt.6.2.1995 was also forwarded with similar request.

4. In reply to para 8 of the affidavit, it is submitted that the letter dt.27.4.1995 alleged to have been submitted along with few M.Books in the office of the District Panchayat Officer is a fabricated letter to cover up the lapses, irregularities, illegalities committed by the petitioner.

6. In view of the facts and circumstances, it has been clear that the petitioner herein has misappropriated a sum of Rs.2,95,000/-. He has created this record by filing representation before the various authorities without there being any substance in it."

During the pendency of the writ petition, notice dated 1.11.1997 was issued by Mandal Revenue Inspector, Mungala for recovery of a sum of Rs.2,95,900/- from the petitioner by treating the same as land revenue for the purposes of Section 150 of the Andhra Pradesh Gram Panchayat Act, 1964. However, the same could not be executed on account of interim order dated 5.12.1997 passed by the Court in WPMP.No.38788 of 1997.

At the commencement of arguments, learned counsel for

the petitioner made a request that the case may be adjourned to enable his client to file rejoinder to the counter of the respondents, copy of which was made available to him only on 28.10.2006.

Ordinarily, we would have accepted the request of the learned counsel and adjourned the case, but keeping in view the fact that the matter has remained pending for last more than 11 years and the action initiated by the concerned authority for recovery of the public money has remained stultified due to the interim order passed by the Court, we do not find any justification to adjourn the case, more so, because the petitioner did not seek amendment of the writ petition for challenging the legality of notice dated 1.11.1997 issued by the Mandal Revenue Inspector. In our considered view, in the matters involving recovery of public dues, the concerned authorities should have freedom to finalise the proceedings and pass appropriate order. The person, who may feel aggrieved by such action, can challenge the final decision/order by availing appropriate legal remedy or by filing petition under Article 226 of the Constitution. However, there can be no justification for the Court's interdiction at the threshold of the proceedings or before finalization thereof.

Hence, the writ petition is disposed of with the direction that the concerned authority should finalise the proceedings pending against the petitioner within a period of four weeks from the date of receipt of copy of this order. Needless to say that before finalization of the proceedings and passing any adverse order, the petitioner should be given reasonable opportunity to defend himself. It is also made clear that if the petitioner feels aggrieved

by the final order, then he shall be free to avail departmental or legal remedies, if any available.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

02.11.2006

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